

ASSEMBLY BILL

No. 1629

Introduced by Assembly Member Bonta

February 10, 2014

An act to amend Sections 13951 and 13957 of the Government Code, relating to crime victims, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1629, as introduced, Bonta. Crime victims: compensation: reimbursement of violence peer counseling expenses.

Existing law provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law sets forth eligibility requirements and specified limits on the amount of compensation the board may award. Existing law authorizes the board to reimburse a crime victim or derivative victim for the amount of outpatient mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center, as specified.

This bill would additionally authorize the board to reimburse a crime victim or derivative victim for the amount of outpatient violence peer counseling-related expenses incurred by the victim or derivative victim, as specified. By expanding the authorization for the use of moneys in a continuously appropriated fund, this bill would make an appropriation.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 13951 of the Government Code is amended to read:

13951. As used in this chapter, the following definitions shall apply:

(a) “Board” means the California Victim Compensation and Government Claims Board.

(b) (1) “Crime” means a crime or public offense, wherever it may take place, that would constitute a misdemeanor or a felony if the crime had been committed in California by a competent adult.

(2) “Crime” includes an act of terrorism, as defined in Section 2331 of Title 18 of the United States Code, committed against a resident of the state, whether or not the act occurs within the state.

(c) “Derivative victim” means an individual who sustains pecuniary loss as a result of injury or death to a victim.

(d) “Law enforcement” means every district attorney, municipal police department, sheriff’s department, district attorney’s office, county probation department, and social services agency, the Department of Justice, the Department of Corrections, the Department of the Youth Authority, the Department of the California Highway Patrol, the police department of any campus of the University of California, California State University, or community college, and every agency of the State of California expressly authorized by statute to investigate or prosecute law violators.

(e) “Pecuniary loss” means an economic loss or expense resulting from an injury or death to a victim of crime that has not been and will not be reimbursed from any other source.

(f) “Peer counseling” means counseling offered by a provider of mental health counseling services who has completed a specialized course in rape crisis counseling skills development, participates in continuing education in rape crisis counseling skills development, and provides rape crisis counseling within the State of California.

(g) “Service organization for victims of violent crime” means a nongovernmental organization that meets both of the following criteria:

1 *(1) Its primary mission is to provide services to victims of violent*
2 *crime.*

3 *(2) It provides programs or services to victims of violent crime*
4 *and their families, and other programs, whether or not a similar*
5 *program exists in an agency that provides additional services.*

6 ~~(g)~~

7 *(h) "Victim" means an individual who sustains injury or death*
8 *as a direct result of a crime as specified in subdivision (e) of*
9 *Section 13955.*

10 ~~(h)~~

11 *(i) "Victim center" means a victim and witness assistance center*
12 *that receives funds pursuant to Section 13835.2 of the Penal Code.*

13 *(j) "Violence peer counseling" means counseling by a violence*
14 *peer counselor for the purpose of rendering advice or assistance*
15 *for victims of violent crime and their families.*

16 *(k) "Violence peer counselor" means a provider of formal or*
17 *informal counseling services who is employed by a service*
18 *organization for victims of violent crime, whether financially*
19 *compensated or not, and who has had at least 40 hours of*
20 *specialized training that includes, but is not limited to, applied*
21 *peace building and violence prevention strategies, practical*
22 *applications of violence prevention strategies, trauma-informed*
23 *care, post-traumatic stress disorder and vicarious trauma, victim*
24 *compensation advocacy, retaliation prevention and conflict*
25 *mediation, and case management practices.*

26 SEC. 2. Section 13957 of the Government Code, as amended
27 by Section 2 of Chapter 147 of the Statutes of 2013, is amended
28 to read:

29 13957. (a) The board may grant for pecuniary loss, when the
30 board determines it will best aid the person seeking compensation,
31 as follows:

32 (1) Subject to the limitations set forth in Section 13957.2,
33 reimburse the amount of medical or medical-related expenses
34 incurred by the victim, including, but not limited to, eyeglasses,
35 hearing aids, dentures, or any prosthetic device taken, lost, or
36 destroyed during the commission of the crime, or the use of which
37 became necessary as a direct result of the crime.

38 (2) Subject to the limitations set forth in Section 13957.2,
39 reimburse the amount of outpatient psychiatric, psychological, or
40 other mental health counseling-related expenses incurred by the

1 victim or derivative victim, including peer counseling services
2 provided by a rape crisis center as defined by Section 13837 of
3 the Penal Code *or violence peer counseling services provided by*
4 *a service organization for victims of violent crime*, and including
5 family psychiatric, psychological, or mental health counseling for
6 the successful treatment of the victim provided to family members
7 of the victim in the presence of the victim, whether or not the
8 family member relationship existed at the time of the crime, that
9 became necessary as a direct result of the crime, subject to the
10 following conditions:

11 (A) The following persons may be reimbursed for the expense
12 of their outpatient mental health counseling in an amount not to
13 exceed ten thousand dollars (\$10,000):

14 (i) A victim.

15 (ii) A derivative victim who is the surviving parent, sibling,
16 child, spouse, fiancé, or fiancée of a victim of a crime that directly
17 resulted in the death of the victim.

18 (iii) A derivative victim, as described in paragraphs (1) to (4),
19 inclusive, of subdivision (c) of Section 13955, who is the primary
20 caretaker of a minor victim whose claim is not denied or reduced
21 pursuant to Section 13956 in a total amount not to exceed ten
22 thousand dollars (\$10,000) for not more than two derivative
23 victims.

24 (B) The following persons may be reimbursed for the expense
25 of their outpatient mental health counseling in an amount not to
26 exceed five thousand dollars (\$5,000):

27 (i) A derivative victim not eligible for reimbursement pursuant
28 to subparagraph (A), provided that mental health counseling of a
29 derivative victim described in paragraph (5) of subdivision (c) of
30 Section 13955, shall be reimbursed only if that counseling is
31 necessary for the treatment of the victim.

32 (ii) A victim of a crime of unlawful sexual intercourse with a
33 minor committed in violation of subdivision (d) of Section 261.5
34 of the Penal Code. A derivative victim of a crime committed in
35 violation of subdivision (d) of Section 261.5 of the Penal Code
36 shall not be eligible for reimbursement of mental health counseling
37 expenses.

38 (iii) A minor who suffers emotional injury as a direct result of
39 witnessing a violent crime and who is not eligible for
40 reimbursement of the costs of outpatient mental health counseling

1 under any other provision of this chapter. To be eligible for
2 reimbursement under this clause, the minor must have been in
3 close proximity to the victim when he or she witnessed the crime.

4 (C) The board may reimburse a victim or derivative victim for
5 outpatient mental health counseling in excess of that authorized
6 by subparagraph (A) or (B) or for inpatient psychiatric,
7 psychological, or other mental health counseling if the claim is
8 based on dire or exceptional circumstances that require more
9 extensive treatment, as approved by the board.

10 (D) Expenses for psychiatric, psychological, or other mental
11 health counseling-related services may be reimbursed only if the
12 services were provided by either of the following individuals:

13 (i) A person who would have been authorized to provide those
14 services pursuant to former Article 1 (commencing with Section
15 13959) as it read on January 1, 2002.

16 (ii) A person who is licensed by the state to provide those
17 services, or who is properly supervised by a person who is so
18 licensed, subject to the board's approval and subject to the
19 limitations and restrictions the board may impose.

20 (3) Reimburse the expenses of nonmedical remedial care and
21 treatment rendered in accordance with a religious method of healing
22 recognized by state law.

23 (4) Subject to the limitations set forth in Section 13957.5,
24 authorize compensation equal to the loss of income or loss of
25 support, or both, that a victim or derivative victim incurs as a direct
26 result of the victim's or derivative victim's injury or the victim's
27 death. If the victim or derivative victim requests that the board
28 give priority to reimbursement of loss of income or support, the
29 board may not pay medical expenses, or mental health counseling
30 expenses, except upon the request of the victim or derivative victim
31 or after determining that payment of these expenses will not
32 decrease the funds available for payment of loss of income or
33 support.

34 (5) Authorize a cash payment to or on behalf of the victim for
35 job retraining or similar employment-oriented services.

36 (6) Reimburse the claimant for the expense of installing or
37 increasing residential security, not to exceed one thousand dollars
38 (\$1,000). Reimbursement shall be made either upon verification
39 by law enforcement that the security measures are necessary for
40 the personal safety of the claimant or verification by a mental

1 health treatment provider that the security measures are necessary
2 for the emotional well-being of the claimant. For purposes of this
3 paragraph, a claimant is the crime victim, or, if the victim is
4 deceased, a person who resided with the deceased at the time of
5 the crime. Installing or increasing residential security may include,
6 but need not be limited to, both of the following:

7 (A) Home security device or system.

8 (B) Replacing or increasing the number of locks.

9 (7) Reimburse the expense of renovating or retrofitting a
10 victim's residence or a vehicle, or both, to make the residence, the
11 vehicle, or both, accessible or the vehicle operational by a victim
12 upon verification that the expense is medically necessary for a
13 victim who is permanently disabled as a direct result of the crime,
14 whether the disability is partial or total.

15 (8) (A) Authorize a cash payment or reimbursement not to
16 exceed two thousand dollars (\$2,000) to a victim for expenses
17 incurred in relocating, if the expenses are determined by law
18 enforcement to be necessary for the personal safety of the victim
19 or by a mental health treatment provider to be necessary for the
20 emotional well-being of the victim.

21 (B) The cash payment or reimbursement made under this
22 paragraph shall only be awarded to one claimant per crime giving
23 rise to the relocation. The board may authorize more than one
24 relocation per crime if necessary for the personal safety or
25 emotional well-being of the claimant. However, the total cash
26 payment or reimbursement for all relocations due to the same crime
27 shall not exceed two thousand dollars (\$2,000). For purposes of
28 this paragraph a claimant is the crime victim, or, if the victim is
29 deceased, a person who resided with the deceased at the time of
30 the crime.

31 (C) The board may, under compelling circumstances, award a
32 second cash payment or reimbursement to a victim for another
33 crime if both of the following conditions are met:

34 (i) The crime occurs more than three years from the date of the
35 crime giving rise to the initial relocation cash payment or
36 reimbursement.

37 (ii) The crime does not involve the same offender.

38 (D) When a relocation payment or reimbursement is provided
39 to a victim of sexual assault or domestic violence and the identity
40 of the offender is known to the victim, the victim shall agree not

1 to inform the offender of the location of the victim's new residence
2 and not to allow the offender on the premises at any time, or shall
3 agree to seek a restraining order against the offender.

4 (E) Notwithstanding subparagraphs (A) and (B), the board may
5 increase the cash payment or reimbursement for expenses incurred
6 in relocating to an amount greater than two thousand dollars
7 (\$2,000), if the board finds this amount is appropriate due to the
8 unusual, dire, or exceptional circumstances of a particular claim.

9 (9) When a victim dies as a result of a crime, the board may
10 reimburse any individual who voluntarily, and without anticipation
11 of personal gain, pays or assumes the obligation to pay any of the
12 following expenses:

13 (A) The medical expenses incurred as a direct result of the crime
14 in an amount not to exceed the rates or limitations established by
15 the board.

16 (B) The funeral and burial expenses incurred as a direct result
17 of the crime, not to exceed seven thousand five hundred dollars
18 (\$7,500).

19 (10) When the crime occurs in a residence, the board may
20 reimburse any individual who voluntarily, and without anticipation
21 of personal gain, pays or assumes the obligation to pay the
22 reasonable costs to clean the scene of the crime in an amount not
23 to exceed one thousand dollars (\$1,000). Services reimbursed
24 pursuant to this subdivision shall be performed by persons
25 registered with the State Department of Public Health as trauma
26 scene waste practitioners in accordance with Chapter 9.5
27 (commencing with Section 118321) of Part 14 of Division 104 of
28 the Health and Safety Code.

29 (b) The total award to or on behalf of each victim or derivative
30 victim may not exceed thirty-five thousand dollars (\$35,000),
31 except that this amount may be increased to seventy thousand
32 dollars (\$70,000) if federal funds for that increase are available.